



*Commonwealth of Virginia*

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

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**VIRGINIA WASTE MANAGEMENT BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
MARY BALDWIN UNIVERSITY  
FOR  
MARY BALDWIN UNIVERSITY  
EPA ID No. VAR000011940**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Mary Baldwin University, regarding Mary Baldwin University located in Staunton Virginia, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means Mary Baldwin University, a residential university, located at 101 East Frederick Street, in Staunton, Virginia.
6. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
7. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
8. "Mary Baldwin" means Mary Baldwin University, a non-stock Virginia corporation. Mary Baldwin University is a "person" within the meaning of Va. Code § 10.1-1400.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
11. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
12. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
16. "VSQG" means a very small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-81-10.
17. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

**SECTION C: Findings of Fact and Conclusions of Law**

1. Mary Baldwin University owns and operates a residential university located in Staunton, Virginia.
2. Mary Baldwin University is identified in the RCRA Information System database as a Very Small Quantity Generator (VSQG) of hazardous waste. Mary Baldwin University was issued EPA ID No. VAR000011940 for the Facility. Additionally, Mary Baldwin is a Small Quantity Handler of universal waste.
3. At the Facility, Mary Baldwin generates various hazardous and non-hazardous wastes. The following lists the solid wastes and hazardous wastes, that are generated and accumulated at the Facility:
  - Waste oil
  - Waste Toxic Liquids (silver)
  - Waste paint related material
  - Flammable Liquids
  - Aerosols
  - Corrosive Liquids (acid)
  - Corrosive Liquids (basic)
  - Acute hazardous waste( acute hazardous waste is infrequently generated)
  - Batteries
  - Waste lamps
4. On March 25, 2019, DEQ staff conducted a Compliance Evaluation Inspection of the Facility to evaluate compliance with applicable Virginia Hazardous Waste Management Regulations (VHWMR). Staff also reviewed documents provided to DEQ during the course of the Compliance Evaluation Inspection. The following describe the observations of this inspection.
  - a. Mary Baldwin accumulated more than 1000 kg of hazardous waste in March 2019. Three five-gallon buckets of waste photographic fixer solution in the Fine Arts Center accumulation area labeled with the year 2017 accumulation start date, indicating that this waste has been in the accumulation area greater than 270 days.
  - b. Universal waste mercury-containing lamps were not stored in containers that were structurally sound and the containers were open. The containers holding intact and crushed lamps were not labeled or dated, including an unlabeled 55 gallon drum containing crushed lamps.
  - c. A Bulb Eater was in use by Mary Baldwin to crush mercury-containing fluorescent lamps since 2016; notification of the use of lamp crushing equipment was provided by Mary Baldwin to DEQ on January 20, 2017. The crushing equipment and operation is located in a common area of a building near a staff

work area, without isolation, filtration, or outside discharge of ambient air. The crushing equipment was not operated by a trained operator.

5. 40 CFR 262.14(a)(4)(i) as referenced in 9 VAC 20-60-262 of the VHWMR requires that if a very small quantity generator accumulates at any time 1,000 kilograms or greater of non-acute hazardous waste, such waste may not be held on site for more than 270 days.
6. 40 CFR 273.13(d)(1) as referenced in 9 VAC 20-60-273 of the VHWMR states that: "A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions."
7. 40 CFR 273.14(e) as referenced in 9VAC 20-60-273 of VHWMR states that: "Each lamp or container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamps".
8. 40 CFR 273.15(c) as referenced in 9 VAC 20-60-273 of the VHWMR states that: "A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received."
9. 9 VAC 20-60-1505 B.7(b) states that: "Crushing operations shall occur in a space with its ambient air isolated from other work areas where persons who are not involved in may work. The ambient air from rooms containing crushing operations shall be discharged after filtration directly to an area outside the building where persons are unlikely to be directly exposed."
10. On May 22, 2019, DEQ issued Notice of Violation No. 2019-VRO-0013 to Mary Baldwin University, citing it for violations observed during the March 25, 2019 inspection.
11. On July 2, 2019, Mary Baldwin provided documentation to DEQ that the Bulb Eater lamp crushing equipment and all accumulated crushed lamps had been removed from the Facility for proper disposal and recycling, and no further lamp-crushing activities will be performed by Mary Baldwin.
12. Based on the results of the March 25, 2019 inspection, the Board concludes that Mary Baldwin University has violated 40 CFR 262.14(a)(4)(i), 40 CFR 273.13(d)(1), 40 CFR 273.14(e), 40 CFR 273.15(c), 9 VAC 20-60-1505 B.7(b), as described in paragraphs C(4) through C(9), as described above.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Mary Baldwin University, and Mary Baldwin University agrees to pay a civil charge of \$16,250 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Mary Baldwin University shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Mary Baldwin University shall be liable for attorneys' fees of 30% of the amount outstanding.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Mary Baldwin University for good cause shown by Mary Baldwin University, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Mary Baldwin University admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Mary Baldwin University consents to venue in Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mary Baldwin University declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the

right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein, except that Mary Baldwin University reserves its right to a hearing or other administrative proceeding authorized or required by law or to judicial review of any issue of fact or law contained in any subsequent amendments of this Order issued by the Board without the consent of Mary Baldwin University. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Mary Baldwin University to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Mary Baldwin University does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Mary Baldwin University shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Mary Baldwin University shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Mary Baldwin University shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Mary Baldwin University intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mary Baldwin University.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Mary Baldwin University has completed all of the requirements of the Order;
  - b. Mary Baldwin University petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Mary Baldwin University.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mary Baldwin University from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. The undersigned representative of Mary Baldwin University certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Mary Baldwin University to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Mary Baldwin University.
13. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
14. By its signature below, Mary Baldwin University voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 3<sup>rd</sup> day of March, 2022.

  
Amy Thatcher Owens  
Department of Environmental Quality  
Director, Valley Regional Office

Mary Baldwin University, voluntarily agrees to the issuance of this Order.

Date: 1/20/22 By: Pamela R. Fox President  
(Person) (Title)  
Mary Baldwin University,

Commonwealth of Virginia

City/County of Augusta

The foregoing document was signed and acknowledged before me this 20<sup>th</sup> day of  
January, 2022, by Pamela R. Fox who is  
President of Mary Baldwin University on behalf of the corporation.

Vicki W. Craun  
Notary Public

167353  
Registration No.

My commission expires: 12/31/24

Notary seal:

